

FILED

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California

FEB 13 2020
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
OAKLAND OFFICE

United States of America

v.

JEFFREY ROGER PHILLIPS,

Case No.

4-20-70175**MAG**

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 8 - February 12, 2020 in the county of Contra Costa in the
Northern District of California, the defendant(s) violated:*Code Section*18 U.S.C. § 2252(a)(2), (b)(1)
Maximum Penalties: 20 years imprisonment; 5 years
minimum imprisonment; \$250,000 fine; 3 years supervised
release; \$100 special assessment; forfeiture; restitution*Offense Description*

Distribution of Child Pornography

This criminal complaint is based on these facts:

Attached Affidavit of Federal Bureau of Investigation Special Agent Benjamin Burnheimer

☐ Continued on the attached sheet.

Approved As To Form:


AUSA JONATHAN U. LEE
Complainant's signature

Benjamin Burnheimer, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date:

2/13/20
Judge's signature

City and state:

Oakland, California

Hon. Kandis A. Westmore, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
AND ARREST WARRANT

I, Benjamin Burnheimer, Special Agent with the Federal Bureau of Investigation, being duly sworn, state:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. I submit this affidavit in support of a Criminal Complaint and Arrest Warrant for Jeffrey Roger Phillips ("PHILLIPS"), a 33-year old resident of Walnut Creek, California. This affidavit is made in support of a criminal complaint charging PHILLIPS with Distribution of Child Pornography, in violation of 18 U.S.C. § 2252(a)(2) and (b)(1). The statements made in this affidavit are based on my experience and training as a Special Agent with the Federal Bureau of Investigation and information provided to me by other law enforcement officers. Because this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that PHILLIPS violated 18 U.S.C. § 2252(a) and (b)(1).

II. AGENT BACKGROUND

2. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). I have been so employed since approximately February 2016. I am currently assigned to the San Francisco Field Office, Oakland Resident Agency, to a squad that investigates crimes against children.

3. Since joining the FBI, I have investigated, among other things, federal criminal violations related to child pornography and the sexual exploitation of minors. I am currently assigned to investigate cases involving the sexual exploitation of minors, including such exploitation via the Internet and computers. I have received training in the areas of child

pornography, child exploitation, and human trafficking, and have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in multiple forms of media, including computer media and cellular devices. Through my training and experience, I have become familiar with the methods used by people who commit offenses involving the sexual exploitation of children. My training and experience has given me an understanding of how people who commit offenses relating to the sexual exploitation of minors including the receipt, distribution, and production of child pornography, use the Internet, computers, and cellular devices to facilitate and commit those offenses.

4. I am an investigator and law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7). I am empowered by law to conduct investigations, to execute search warrants, and to make arrests for offenses of Federal law, including offenses relating to child pornography.

III. APPLICABLE LAW

5. I know that it is a violation of Title 18 U.S.C. § 2252(a)(2) and (b)(1) for any person to knowingly receive or distribute any visual depiction of a minor engaging in sexually explicit conduct that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.

IV. FACTS ESTABLISHING PROBABLE CAUSE

A. PHILLIPS Distributed a Video of a Prepubescent Female Engaged in Sexually Explicit Conduct

6. On or around January 8, 2020, a Kik user subsequently identified as PHILLIPS sent a Kik message stating, “Anyone have any young ones lol,” followed by an image of child erotica. This communication occurred in a Kik Chat Group. In this particular chatroom, child

pornography is frequently traded and sexually exploiting minor children is discussed among the individuals in the chatroom. In response to PHILLIPS' message, a law enforcement officer acting in an undercover capacity (UC1) engaged PHILLIPS in a private Kik chat session. UC1 introduced himself as a father of a purported 11-year old daughter (not a real child). The following conversation ensued:

PHILLIPS: do you play boy or girl?

UC1: I def play. 11yo girl. You play?

PHILLIPS: That is amazing what have you tried with her and are you current

UC1: She became my stepdaughter a few months ago. Am current. Lots of kickin an sucking. You?

PHILLIPS: That sounds amazing I play with my neighbor a long time ago

10. The chat continued and PHILLIPS told UC1 that it is hard to find active dads. PHILLIPS then sent UC1 an image of what appears to be a prepubescent female exposing her vagina with her underwear pulled down to her knees.

11. PHILLIPS then sent a video that is approximately 1 minute and 18 seconds long of a prepubescent female. In the video, an adult male places the female on the bed, spreads her legs, attempts to penetrate her vagina with his penis, and then has the young female perform oral sex. The female appears to be under the age of 12.

B. PHILLIPS Described Sexual Contact He Had With a Minor Female and Distributed a Video of a Prepubescent Female Engaged in Sexually Explicit Conduct

12. On or around January 9, 2020, PHILLIPS and UC1 continued their private chat via Kik. The following conversation took place:

UC1: So tell me about some of your experiences?

PHILLIPS: Went hot-tubbing with the neighbor and we're playing dare and I told her to put her puss next to the jet. Then after that I started to finger her and she was loving it

13. On or around January 27, 2020, PHILLIPS and UC1 continued their private chat and PHILLIPS inquired about the sexual acts UC1 does with his 11-year old daughter. PHILLIPS suggested UC1 should use some “toys” on his daughter first and told UC1, “Just use a lot of lube and make sure she is warmed up.”

14. During the course of the investigation, UC1 told PHILLIPS about another female who works as a nanny and is also interested in playing with children. On January 28, 2020, PHILLIPS and the female who unknown to PHILLIPS was another law enforcement officer acting in an undercover capacity (UC2), engaged in a private Kik chat.

15. The conversation continues and the following conversation occurs:

UC2: I'd love to see u before I send I stuff just to make sur ur legit

UC2: Or I could text ya

PHILLIPS: I like keeping everything on this app I don't like to text

PHILLIPS: I like being anonymous so I can get some naughty stuff

16. PHILLIPS then sent UC2 a video that is approximately 1 minute and 46 seconds long. The video depicts a fully nude prepubescent female in a kneeling position on the ground. In the video a male's voice is narrating and refers to the video as “whore slave three.” The male narrator states that the prepubescent girl on her knees is twelve years old. The narrator then tells the minor to spread her legs and asks the young girl, “What's your sole purpose?” The young girl responds, “To suck and deep-throat your cock master.” The narrator asks, “And how deep must you suck it?” The girl responds, “Until I gag.” The video continues and the narrator directs the girl to come towards him and directs her to “begin.” The girl continues to perform oral sex on the male until he directs the girl, “Assume the position” at which point the young girl retreats to the kneeling position at his feet until the video ends.

D. PHILLIPS Distributed a Video of a Prepubescent Female Engaged in Sexually Explicit Conduct and Discussed Sexual Contact He Had With a Minor Female

17. PHILLIPS and UC2 continued in conversation and PHILLIPS sent another video that is approximately 1 minute and 45 seconds long in which an adult male penis is penetrating an Asian prepubescent female. Towards the end of the video, the male ejaculates on the mouth of the prepubescent female.

18. The following conversation then occurs:

PHILLIPS: Have u ever tried a lil one first u?

UC2: Finger and lick

UC2: U?

PHILLIPS: Yup

UC2: When's the last time?

PHILLIPS: A couple months ago

PHILLIPS: I was taking care of the neighbor

UC2: Mmm id love to hear about it

PHILLIPS: Wasn't too crazy I was in the hot tub

PHILLIPS: The jet at first and she loved it

E. PHILLIPS Distributed a Video of a Prepubescent Male Engaged in Sexually Explicit Conduct

19. PHILLIPS then sends UC2 another video that is approximately 4 seconds long in which a female of an unknown age is placing her mouth on the penis of a prepubescent boy. The boy appears to be under the age of 6.

F. PHILLIPS Is Identified By Video Chat, Phone Number, Snapchat Account and IP Address

20. As the conversation continues, PHILLIPS told UC2 he is interested in "watching" the next time she "plays." UC2 asked if he has FaceTime or Skype and PHILLIPS responded, "Snapchat." PHILLIPS then provided his Snapchat user name.

21. On February 1, 2020 at approximately 2:48 p.m., UC2 and PHILLIPS had a Snapchat voice call that lasted approximately fifteen minutes. During the call, PHILLIPS asked UC2 what she likes to do. UC2 told PHILLIPS to tell her what he likes to do first. PHILLIPS then explained he likes “everything” and he has tried some things and likes to watch everything. UC2 asked PHILLIPS if he has kids and he responded, “No... just friends and neighbors.” PHILLIPS then asked UC2 if she has had a kid “fist” her before. PHILLIPS then asked, “how do you get them to start playing with you...what’s your tactic?” PHILLIPS then explained he saw a video of a girl fisting a woman and “it was amazing.” PHILLIPS asked UC2 if she has done any “penetration” and asked UC2 how she gets kids to do that because it is the “hardest.” UC2 told him she is not going to give him all of her secrets. PHILLIPS then told UC2 he is going to switch to video chat mode and activates his camera. UC2 was able to observe the face of a white male with a reddish beard and mustache who appeared to be reclined on a couch. The video and voice call ended shortly thereafter. UC2 observed the associated photograph on the PHILLIPS’ DMV records and recognized the individual to be the same white male she observed during the video portion of the Snapchat voice call

22. In response to the above private chats, Snapchat audio, and video communication, investigators requested subscriber records for the Kik and Snapchat accounts. The Kik records indicate that the user of the Kik user name associated with PHILLIPS created the Kik account in December of 2017. The Kik results provided mobile IP addresses which were located in the San Francisco Area. The records obtained from Snapchat indicated that the Snapchat with the user name provided by PHILLIPS has an associated telephone number starting with the (925) area code and was created on September 26, 2019. The results also listed the associated non-mobile login IP address of 162.229.190.95.

23. Pursuant to a subpoena issued to AT&T, the subscriber of IP address 162.229.190.95 is S.P. at PHILLIPS' Walnut Creek address.

24. The subscriber of the phone number with the (925) area code associated with the Snapchat user name provided by PHILLIPS is PHILLIPS and the subscriber address is PHILLIPS' Walnut Creek address.

G. Execution of Search Warrant At An Address In Walnut Creek, California

25. On February 12, 2020, law enforcement agents served a federal search warrant at an address in Walnut Creek and seized PHILLIPS' cellular phone. Federal agents seized a Samsung Galaxy Note 9, model number SM-N960U, the same model phone and at the same (925) area code phone number indicated in the Kik subscriber records for the Kik user identified as PHILLIPS.

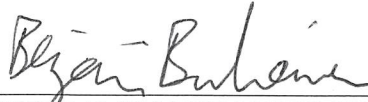
26. After gaining access to the phone, the Kik application was open to a chat with UC2, in which PHILLIPS is attempting to set up a video chat to watch UC2 perform sexual acts on a purported 9-year old female for whom she nannies. PHILLIPS asks UC2 "If you get her to fist please make a video." UC2 then asks if he has any other special requests to which her responds "Maybe see her. Get penetrated with some objects. See how big she can get up to." PHILLIPS later tells UC2 "The goal is to eventually get a banana in."

V. CONCLUSION

27. Based on the information above, I submit that there is probable cause to believe that, between the approximate dates of January 8, 2020 and February 12, 2020, in the Northern District of California, the Defendant, Jeffrey Roger PHILLIPS, committed the following federal
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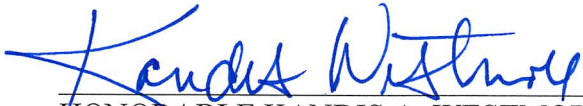
offense: Distribution of Child Pornography, in violation of 18 U.S.C. §§ 2252(a)(2) and (b)(1).

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.



BENJAMIN BURNHEIMER
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me on this 13th day of February 2020



HONORABLE KANDIS A. WESTMORE
United States Magistrate Judge